

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT**

United States Court of Appeals  
Fifth Circuit

**FILED**

January 3, 2013

Lyle W. Cayce  
Clerk

\_\_\_\_\_  
No. 12-50835

Summary Calendar  
\_\_\_\_\_

AMERICO BAUTISTA-VILLARREAL,

Petitioner-Appellant

v.

UNITED STATES OF AMERICA; WARDEN, REEVES COUNTY DETENTION  
CENTER III; BUREAU OF PRISONS; GEO GROUP,

Respondents-Appellees

\_\_\_\_\_  
Appeal from the United States District Court  
for the Western District of Texas  
USDC No. 4:11-CV-41  
\_\_\_\_\_

Before HIGGINBOTHAM, OWEN, and SOUTHWICK, Circuit Judges.

PER CURIAM:\*

Americo Bautista-Villarreal, federal prisoner # 37537-079, an alien against whom the Bureau of Immigration and Customs Enforcement has issued a detainer subjecting him to immediate removal from the United States upon release from Bureau of Prisons (BOP) custody, moves this court to proceed in forma pauperis (IFP) to appeal the dismissal of his 28 U.S.C. § 2241 petition challenging the BOP's exclusion of him from rehabilitation programs and

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\* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

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halfway houses. His arguments are foreclosed by this court's decision in *Gallegos-Hernandez v. United States*, 688 F.3d 190, 192-93 (5th Cir. 2012), *cert. denied*, \_\_\_ S. Ct. \_\_\_, 2012 WL 4462145 (U.S. Oct. 29, 2012) (No. 12-6450).

Accordingly, Bautista Villarreal's motion to proceed IFP is DENIED, and his appeal is DISMISSED as frivolous. *See* 5TH CIR. R. 42.2.